



Second Meeting
2003 Interim
September 29 & 30, 2003

Room 412
State Capitol
Pierre, South Dakota

The second meeting of the 2003 interim of the Legislature's State-Tribal Relations Committee was called to order by Chair Representative Stan Adelstein at 9:15 a.m. (CT), September 29, 2003, in Room 412 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Brock Greenfield, Gil Koetzle, Michael LaPointe, and Sam Nachtigal; and Representatives Stan Adelstein, Jim Bradford, Kent Juhnke, and Thomas Van Norman. Senator Patricia de Hueck was present on September 30, 2003, and Representative J.E. "Jim" Putnam was excused for both days of the meeting.

Staff members present included Tom Magedanz, Principal Research Analyst, and Teri Retrum, Senior Legislative Secretary.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

Education Programs of the Bureau of Indian Affairs

Dr. Cherie Farlee, Cheyenne River Agency Education Line Officer, introduced herself and other speakers from the Bureau of Indian Affairs (BIA) to discuss BIA education programs.

Mr. Dan Shroyer, Crow Creek/Lower Brule Education Line Officer, said that currently there are one hundred eighty-four BIA schools across twenty-five states with approximately forty-five thousand students. Ten percent of Indian students are in BIA schools. In the 1970s, federal law allowed contract schools; and in 1988, grant schools, which are run by the tribes using BIA grants, were allowed. Currently, one hundred forty BIA schools are grant schools, and a majority are run by the tribes. Mr. Shroyer said that all BIA schools are accredited by the state. The state does not have jurisdiction over these schools; however, Mr. Shroyer said that the state does provide valuable assistance when requested. Also, Mr. Shroyer said that there are four education line offices in South Dakota.

Ms. Bonnie Haines, Lower Brule Sioux Tribe School Reform and Testing, said that the BIA schools are held to the No Child Left Behind Act. Ms. Haines said that the BIA schools are trying to determine the definition of the phrase, "adequate yearly progress," which determines the status of the school within the following categories outlined by the Act:

- Basic;
- Proficient; and
- Advanced.

Responding to a question posed by Chair Stan Adelstein, Ms. Haines said that corrective action is implemented if a school does not make adequate yearly progress in four years.

Chair Adelstein asked about the high school graduation rate from reservation schools. Mr. Shroyer said that there is a ten to twelve percent school dropout rate on the reservations. He said that it is difficult to determine an accurate graduation rate because students move around a lot and also move between public schools and BIA schools.

Chair Adelstein said that he has been told that twenty percent of Indian citizens in South Dakota have completed high school and asked whether that was an accurate figure.

Dr. Farlee replied that BIA numbers show a higher percentage than twenty percent, but there is not a system in place to track the actual numbers because students move in and out. Dr. Farlee commented on an alternative learning center which has had a better graduation record. She attributed part of that graduation rate to a good teacher to student ratio.

Senator Gil Koetzle asked what happens when a school does not make adequate yearly progress in four years.

Mr. Shroyer said that it has been explained to the schools that it is up to them to take the responsibility to make necessary changes to meet the requirements. He said that BIA schools, as well as public schools, are trying to sort through the No Child Left Behind Act to decide how to proceed. Mr. Shroyer said that each school in his education region has an alternative program, which has allowed more students to graduate.

Chair Adelstein asked for comments regarding parental involvement in the schools.

Dr. Farlee said that many parents are not educated, and there are minimal job opportunities on the reservations. She said that these factors, as well as a sense of hopelessness in families, can lead to a lack of parental involvement in schools.

Senator Michael LaPointe asked for suggestions on ways that the Legislature could help to improve graduation rates at BIA schools.

Mr. Shroyer responded that if eighty percent of the reservation population were employed, most education and social problems would be resolved. Mr. Shroyer said that the tribes only gained authority to run the schools in 1988 and that it takes time to develop success. He said that the key to success on the reservations is economic development.

Chair Adelstein asked for information on the average expenditure per student enrolled. Mr. Shroyer said that the Weighted Student Unit (WSU) is \$3,700—high school student is \$5,200, less for elementary student. He said that schools with dormitories increase the amount. Dr. Farlee said that the reservations count students once per year. Mr. Shroyer said that an individual must be an enrolled member of the tribe or an individual with one-quarter Indian blood to be counted.

Representative Jim Bradford said that in Pine Ridge, on “count day” there are a lot of students present. He said that it costs \$14,000, including all expenses, such as busing, special education, and other costs to educate a child. Representative Bradford noted that some students live up to fifty miles from the school.

Representative Bradford noted that some students receive a GED certificate, so he believes that the graduation rate is higher, perhaps fifty percent. He said that a better tracking system needs to be in place. Representative Bradford said that there is no incentive to get an education because there are no jobs available after graduation.

Senator LaPointe asked: “Are you underfunded?” Mr. Shroyer responded that the schools could use more dollars but that he could not cite an exact amount. He said that more facilities would be beneficial—currently, the schools are thirty-two percent short of funding for facilities, and administrative costs have never been funded at one hundred percent.

Mr. Willard Walters, Pine Ridge Education Line Officer, said that he was in an Arizona grant school. It was a charter school, but it lost its charter. He said that the tribes need to focus on quality education.

The committee recessed at 10:30 a.m. and reconvened at 10:50 a.m.

Dr. Richard Bordeaux, Todd County Superintendent of Schools, discussed the public education system on reservations. He said that the Todd County School District covers an area of over 1,600 square miles and serves approximately 2,200 students in twelve facilities spread throughout the district. Ninety-seven percent of the students are American Indian; the remaining three percent are non-Indian. According to Dr. Bordeaux, student attendance is about seven percent to ten percent lower than state averages, and student achievement scores are over thirty percent lower than the rest of the state, with a twelve percent dropout rate per year.

Dr. Bordeaux said that he used to believe the disparity was culturally based; however, over the years, he said that he has come to understand that it has to do with economics. Todd County is the fourth poorest county in the country and has the highest rate of single parents in the country. Almost fifty percent of the population is under 20 years of age. Also residents of Todd County have the shortest life expectancy in the country. Dr. Bordeaux distributed copies of the following documents:

- Statistics concerning impact aid for the State of South Dakota (Document #1);
- Fiscal Year 2004 Impact Aid Appropriation Status Report as of 9/5/03 (Document #2);
- Chart of impact aid figures for counties with BIA schools (Document #3); and
- Basics of impact aid (Document #4).

Dr. Bordeaux said that the federal government is behind in paying some of the aid and discussed how impact aid is calculated.

Responding to Senator LaPointe's question on how the state can help the situation in Todd County, Dr. Bordeaux said that the state can help with the quality of teachers, teacher recruitment and retention, and alternative certification. He also said that the Legislature could continue to encourage the South Dakota Department of Education "to work with us."

Answering questions posed by Chair Adelstein, Dr. Bordeaux commented that job opportunity would go a long way in helping parental involvement in schools; it is an economic issue. He said that he would support a Junior ROTC program in the school.

Mr. Walters interjected that the school district needs a clear definition of the meaning of "adequate yearly progress."

The committee recessed at 12:00 p.m. and reconvened at 1:05 p.m.

Dr. Wayne Evans, University of South Dakota, College of Education, and President of the South Dakota Indian Education Association of South Dakota, which was revived early this fall, stated that not only must "no child be left behind," but "no family must be left behind." He said that the economic infrastructure needs to be improved on the reservations. Dr. Evans said that there are subtle signs of racism by omission and that economics is the underlying issue for Native Americans. He said that when Native American children see people in positions of importance and ownership, they do not see minorities in those situations. Regarding school attendance, children do not understand the importance of an education when there are no job opportunities.

Dr. Evans outlined some of the negative issues among the Native American population but focused on the positive elements that can be achieved, such as:

- Dialogue among the community, parents, and children;
- Legislative support for the State Office of Tribal Government Relations with resources and personnel;
- Form a Blue Ribbon Panel to "take a critical look at education on the reservations"—open discussion with all involved;
- Need to energize the people from the "bottom up";
- Think as a whole and think globally, not just educationally but economically as well;
- Implement a Civilian Conservation Corps-type program in reservation areas to provide jobs with living wages and to improve the economy and reduce welfare; the alternatives are very costly—jails, prisons, treatment centers;
- Create an Indian Education Office;
- Recruit and train Indian teachers to teach in public schools; and

- Establish a Native American scholarship fund.

Dr. Evans said that as President of the South Dakota Indian Education Association, he will work to open grass roots dialogue and try to create and foster a sense of ownership in the reservation schools.

Representative Thomas Van Norman asked how the state can dedicate resources to Indian education. Dr. Evans responded that it is the normal responsibility of the state to educate its children. A fund is needed to help target Native American teachers who will go to work in depressed areas for forgiveness of school loans. Representative Van Norman expressed support for Dr. Evans' comments and said that it would help to alleviate some of the subtle racism that is encountered.

Major Michael Iwen, JROTC Program, Pine Ridge High School, reviewed a Power Point presentation with the committee. Major Iwen began his presentation by briefing the committee on the history of the JROTC program. He said that it was established as part of the National Defense Act in 1916. Currently, JROTC is the largest program in the Army and enjoys popular support and congressional endorsement. Major Iwen said that the mission of the program is to motivate young people to be better citizens, and the goal of the program is to graduate its participants from high school. He said that the program promotes citizenship, develops leadership, and develops good communication skills.

Major Iwen said that the current curriculum plan has been established by the American Management System and is focused on student-centered small groups of learning. The No Child Left Behind Act also will affect JROTC. He said that the programs in Lower Brule and Pine Ridge demonstrate proven success—attendance has improved; the dropout rate is on the decline; and there is more pride, respect, and self-confidence. Major Iwen said that the parents are heavily involved in the program and that there is a great relationship with the parents.

Major Iwen noted that teacher certification for JROTC instructors would benefit the participants of JROTC because it would allow some of the curriculum to be used as credit to graduate from high school.

Mr. David Plume, Pine Ridge, Early Childhood Education and Economic Development, offered some of his observations from teaching on the Pine Ridge Reservation. He said that poverty and dependence knows no racial boundaries. Mr. Plume said that he wants to work on an early childhood education and economic development track for Pine Ridge.

Responding to committee questions, Mr. Plume said that a significant number of children who grow up in poverty later will become a burden to society. He said that it would benefit everyone if more money were spent on infant and childhood development and education. Mr. Plume suggested that the committee invite Dr. Craig Ramey, a leading expert on early childhood education, to talk to the committee about the Abesedarian Project. He said that Pine Ridge has run out of incentives to bestow on parents to get them to become more involved with their children's education. Mr. Plume said that "we have to get people to realize

that we need a skilled work force.” He also said that the reservations should implement a compulsory school attendance mandate, take responsibility for their children, and stop contributing to dependency. Mr. Plume said that he wants to look beyond the boundaries of Pine Ridge so that maybe the state also can fit into the equation in some way.

Senator LaPointe said that Todd County has a truancy program and that it is strictly enforced to the point that parents are even brought before the tribal court to address the issue.

Public Testimony

Mr. Clyde Red Shirt, Pine Ridge, Civil Rights and Prison Program Director, told the committee some of his personal history that led to his current position on the reservation. He said that education is very important and that the education system today in Indian Country operates under state standards. The reservations need to pattern the educational program to parental involvement. Children need positive role models to follow and good teachers. Mr. Red Shirt said that if parents do not get involved in their children’s education, the schools fail.

Mr. Red Shirt also asked the committee to look into practices of mistreatment of prisoners in state and federal prisons. Representative Bradford said that he does not want to ignore the Indian people in prisons and wants the committee to do more study of the issue. Representative Van Norman asked Mr. Red Shirt to give the committee some suggestions on how to address the prison topic. The following are some of the suggestions outlined by Mr. Red Shirt:

- Judges’ decisions should be final;
- Allowed to practice traditional religion;
- Allow families of inmates to visit and participate in religious ceremonies;
- Adequate food;
- Better living conditions;
- Alternative programs to incarceration; and
- Reassess the inmate job payment guidelines.

Chair Adelstein asked LRC staff to write to officials from the Department of Corrections asking them to respond to the committee regarding these issues. Senator Koetzle asked that the criteria and methods used by the Department of Corrections in determining monetary charges to prisoners also be included in the written request for information.

Senator LaPointe noted that a Governor’s Task Force is studying the prison and corrections issues. He said indications are that the federal code is much of the problem in sentencing and requested that staff obtain copies of the Braunstein report from the University of South

Dakota, which addresses these issues. Senator LaPointe also asked for an update on the progress of the Governor's Task Force.

Representative Van Norman said that the focus should be more on treatment and housing of prisoners and on services and reform.

Senator LaPointe suggested that maybe the committee should invite personnel from the Department of Corrections to the committee's next meeting to address these concerns.

The committee recessed at 4:50 p.m. and reconvened at 9:10 a.m. on Tuesday, September 30.

Tuesday, September 30, 2003

Mr. Clint Waara, Wells Fargo Community Development Representative, said that he is a member of the Cheyenne River Sioux Tribe and that his grandfather was a tribal chair. He said that he represents Wells Fargo in the states of South Dakota, North Dakota, and Montana, which make up the bank's Prairie Mountain Region. Mr. Waara said that the bank invests within the EQ2 which offers low income mortgages at two percent interest over ten years. They partner with the tribes to affect tribal economies and housing projects. He said that Wells Fargo has a significant relationship with the Standing Rock Sioux Tribe, Rosebud Sioux Tribe, Lower Brule Sioux Tribe, and they are working with Cheyenne River Sioux Tribe on locating a bank on its reservation. Mr. Waara also discussed the HUD 184 Program which works with mortgages on deeded or trust land.

Senator LaPointe said that there is a long waiting list for HUD loans and asked whether Wells Fargo conducts financial literacy programs. Mr. Waara responded that Wells Fargo does sponsor financial literacy programs and will soon offer a CD-Rom called "Hands-on Banking." They also offer seminars on responsible financing.

Representative Van Norman said that many people on reservations do not have access to a computer and the Internet and invited Mr. Waara to Eagle Butte to discuss the possibility of conducting a hands-on seminar.

Responding to Representative Van Norman's request to offer his personal viewpoint on how to enhance life on reservations, Mr. Waara said that it is important to educate youth in financial matters no matter where they live, perhaps even be at the forefront of a child's education. He said that "cash and carry" is a way of life on reservations; ninety percent of the residents do not have a banking relationship. They need to learn how to make their money work for them.

Mr. Brian Drapeaux, Lower Brule Sioux Tribe Development Officer, said that he has been focusing on developing natural resources to the last step and trying to engage in value-added economic activity. Currently, the Lower Brule Sioux Tribe operates a farm corporation with a 1,500 cattle herd, a small grocery store, a youth center, a hunting lodge with guided hunts, and is working on a new trading business. He said that the tribe does not have a lot of business infrastructure and wants to explore the value-added process. Mr. Drapeaux said

that the tribe and school system are the biggest employers. He said that one of the biggest obstacles to sustainable economic development is overcoming the public's perception of doing business on the reservation.

Senator LaPointe said that he wants to open the state's biggest industry, agricultural products, to Indian Country and wants to enlist the state Department of Agriculture in this approach.

Tribal Chair Michael Jandreau, Lower Brule Sioux Tribe, said that the state could help in getting small business loan certification for the tribes. He said that the tribes need to be creative in developing limited partnerships for economic development and that the tribes need to develop economic infrastructure. Chair Jandreau said that if people could make a decent living on the reservation, the whole state would benefit.

Senator Patricia de Hueck questioned how the Governor's Office of Economic Development could assist the tribes in marketing products from the reservations and asked whether the Lower Brule Sioux Tribe would welcome assistance from that office, to which Chair Jandreau and Mr. Drapeaux responded positively.

Representative Van Norman and Senator LaPointe thanked Chair Jandreau for coming to the meeting and said it was an honor to have him in attendance. Representative Van Norman then asked Chair Jandreau for ideas on how the state can help with economic development.

Chair Jandreau responded that it is important to work not only with the state but to work also on pulling the tribes together to work on economic issues. He said that the tribes are contributing entities to South Dakota not only agriculturally but also technologically. Chair Jandreau asked the state to recognize the tribes as full partners in South Dakota regarding economic development and stated that the tribes can be a functioning part of the total system.

Representative Bradford asked Chair Jandreau about health care on the reservations. Chair Jandreau said that there is a lack of quality health care on the reservations. He said that sometimes a reservation has a health facility but does not have the personnel to provide health services.

Mr. Drapeaux said that the committee should hold field hearings on the reservations to show that "you are not afraid to come." He said that discounting jurisdictional issues, the committee should determine what the state's responsibility is to help the reservations with health and education matters.

Mr. Plume described the empowerment zone concept. He said that stable government is a very important factor in attracting businesses to the reservations. The empowerment zone gives tax breaks to businesses that hire people who live in the zone. Mr. Plume stressed that financial literacy on the reservations is very important. He noted that the reservations do have culture, human capital, schools, and a land base that can be used for economic development.

Representative Van Norman suggested that the committee ask all tribal chairs to come to the next meeting to discuss economic development. He said that the Governor's Office of Economic Development and the Small Business Administration should also be included in the

discussion. Representative Van Norman said that the Lower Brule Sioux Tribe would be willing to host such a meeting.

Chair Adelstein said that he would want all tribes represented at the meeting and that he is confident that the Governor would be interested in participating in some way. Representative Van Norman suggested that this meeting be held on the second day of the committee's next meeting. Chair Adelstein agreed and said that the committee will invite all tribes and state officials to attend the meeting.

Responding to Senator de Hueck, Mr. Plume said that it is hard to follow through with some tribes due to a frequent change of officials. He said that he believes that Mr. Campbell is very helpful and is "up to speed on everything."

Chair Adelstein asked what state government could do to help the reservations.

Mr. Plume said that the committee could write letters of support to South Dakota's congressional delegation and make capital more easily available instead of having to compete for it. Mr. Plume stated that the tribes have got to take the ultimate responsibility for their people and the conditions on the reservations.

The committee recessed at 12:00 noon and reconvened at 1:20 p.m.

Mr. Roger Campbell, Commissioner, South Dakota Office of Tribal Government Relations, gave the committee a brief update on the activities of the office. He said that his main focus right now is tax collection agreements with the tribes. Mr. Campbell said that, at the direction of the Governor and the Secretary of the Department of Education, the Office of Indian Education is being revived.

Senator de Hueck asked whether grants from the Governor's Office of Economic Development are available to tribes to market products under their own label. Mr. Campbell said that he possibly is in a position to facilitate such an endeavor.

Chair Adelstein asked that the committee think of a way to make its wishes known to the Governor that they want Mr. Campbell's office to be funded adequately for the necessary FTEs, equipment, and so on.

Public Testimony

Ms. Marletta Pacheco, Rapid City, South Dakota, testified that she is involved in supporting prisoners in South Dakota institutions. Ms. Pacheco submitted letters written to her from people incarcerated in the state expressing their concerns. She listed plea bargains and sentencing; religion; parole; alcohol evaluations, which inmates say are inflated; and policies that are dangerous to inmates among those concerns. Ms. Pacheco said that inmates believe that there is a racist attitude toward their religion, especially at Springfield. According to Ms. Pacheco, the inmates do not understand the court process that "got them there." She suggested that the state hire an ombudsman to work on adult corrections complaints on

procedures that are not being addressed. Ms. Pacheco commented that some small and beneficial changes have been made.

On a personal level, Ms. Pacheco talked about a letter that she sent to the Mayor of Rapid City regarding an arrest of her granddaughter and the placement of her great granddaughter in the care of the Department of Social Services instead of with family members.

All aforementioned documents, including supporting materials, are filed with the original minutes and are labeled Document #5.

REPRESENTATIVE BRADFORD MOVED, SECONDED BY REPRESENTATIVE VAN NORMAN, THAT COPIES OF DOCUMENT #5, AS PRESENTED BY MS. PACHECO, ALSO BE DISTRIBUTED TO THE LEGISLATURE'S INTERIM CORRECTIONS REVIEW COMMITTEE AND TO THE GOVERNOR'S TASK FORCE ON CORRECTIONS. Motion prevailed unanimously on a voice vote.

Mr. Ron Kirkie, Tribal Council Member, Ft. Thompson, South Dakota, said that people need to be educated about tribal law, federal law, and state law. He expressed support for the committee and said that he appreciates getting materials from the meetings. Mr. Kirkie invited committee members to attend the Gathering and Healing of Nations to be held at the Pierre Indian Learning Center on Monday, October 6, 2003. At the conclusion of his remarks, Mr. Kirkie sang a song of prayer.

Chair Adelstein asked for input on the Bear Butte issue. He said that the Governor has stated that the grant for the shooting range has been rescinded and that the money will be returned.

REPRESENTATIVE VAN NORMAN MOVED, SECONDED BY REPRESENTATIVE BRADFORD, THAT THE COMMITTEE EXPRESS TO THE GOVERNOR THAT IT SUPPORTS THE CANCELATION OF THE SHOOTING RANGE PROJECT AND THE RETURN OF THE GRANT MONEY. Motion prevailed unanimously on a voice vote.

Mr. Duane Martin, Sr., Hill City, South Dakota, said that he was representing United Native Nations and Indigenous Peoples. Mr. Martin expressed concern about the conditions at the Jamison Annex and the State Penitentiary and the suicide rate of Native American inmates. He asked the committee not to forget about those concerns. Mr. Martin urged the committee to "take a look at the prison system" and stated: "Return jurisdiction back to my people." He invited members to Pine Ridge to observe tribal meetings and events.

Senator LaPointe said that he has been told that "the real change needs to be to the federal law." He said that he is still learning about the issue and wants to learn more about federal law versus state law.

Ms. Marge Two Hawk, Pierre, South Dakota, spoke to the committee about the rights of grandparents. She related an ongoing personal experience that her family has been facing with the state's actions regarding her granddaughter. Ms. Two Hawk said that her granddaughter is being adopted in two weeks. She said that extended family members were

not considered for custody of her granddaughter. Ms. Two Hawk said that her granddaughter has family that wants to take care of her.

Committee Discussion and Action

To address concerns, the committee asked staff to invite officials from the Department of Social Services to attend its next meeting to answer questions regarding the issue brought forth by Ms. Two Hawk.

Representative Bradford asked for information on the TARO Tax situation.

Representatives Van Norman and Bradford said that they will contact each tribal chair to invite them to the committee's next meeting.

Chair Adelstein asked Mr. Evans to please provide a white paper to the committee on his ideas for education.

Senator LaPointe asked staff to draft legislation to establish a program to recruit Indian teachers to teach in public schools.

Representative Bradford asked for discussion to work toward a forgiveness of school loan debt program for those graduating teachers who will work in Native American areas.

Senator LaPointe asked staff to invite officials from the Department of Corrections to the next meeting to address continuing concerns about conditions in its institutions.

Representative Van Norman asked staff to forward copies of Ms. Pacheco's documents to the Department of Corrections.

Senator Nachtigal said that the committee should explore ways to address Major Iwen's ideas, such as teacher certificates for JROTC instructors and school credit to the participants in the programs.

Next Meeting Dates

With the consensus of the committee, Chair Adelstein tentatively set November 4, 2003, in Pierre, and November 5, in Lower Brule, as the next meeting dates.

Adjournment

SENATOR GREENFIELD MOVED, SECONDED BY SENATOR LA POINTE, THAT THE COMMITTEE BE ADJOURNED. Motion prevailed unanimously on a voice vote.

The committee adjourned at 3:50 p.m.



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